

24.

A canister for receiving body fluids, said canister comprising:

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continued*
- (a) A body having side walls and a bottom;
  - (b) a removable lid for sealably covering said body;
  - (c) a first inlet port in said lid for inflow of body fluids into said canister;
  - (d) a second inlet port in said lid for inflow of cleaning fluid into said canister;
  - (e) a sprayer in fluid communication with said second inlet port for spraying said cleaning fluid within said canister;
  - (f) a closure for closing said second inlet port during said inflow of body fluids into said canister;
  - (g) an outlet port in said lid for suctioning body fluids and said cleaning fluid from said canister;
  - (h) a suction tube in fluid communication with said outlet port and extending to said bottom of said canister;
  - (i) a closure for closing said outlet port during said inflow of body fluids into said canister;
  - (j) a vacuum port in said lid for application of vacuum to said canister for inducing said inflow of body fluids into said canister; and,
  - (k) a check valve on said lid operably coupled to said vacuum port for stopping said application of vacuum to said canister when the level of body fluids in said canister reaches a predetermined level.
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#### REMARKS

The applicant has amended claims 1, 7, 14 and 15 as discussed hereunder and added new independent claims 23 and 24 to further define the invention. Payment of the fees for the new independent claims is made in the accompanying Transmittal Letter.

With regard to the Examiner's requirement to include the current status of the parent application referenced at page 1 of the specification, the applicant advises that application No. 08/627,011 has issued as U.S. Patent No. 5,741,237 on April 21, 1998. The specification is amended at page 1, line 5 to include this information.

The Examiner has rejected claims 1 - 22 under 35 U.S.C. 112, second paragraph, as being indefinite, on the basis that claims 1, 7, 14 and 15 have improper antecedent basis for the second occurrence of "a removable lid." These four claims have been amended in response to this rejection by deleting the first reference to "a removable lid." It is submitted that the claims now comply with the requirements of 35 U.S.C. 112, second paragraph.

In paragraph 6 of the Office Action, the Examiner rejects claim 22 under 35 U.S.C. 102(b) as being anticipated by Kerwin et al. U.S., Patent 5,449,009. The applicant submits that Kerwin et al. does not anticipate claim 22 for the following reasons. Kerwin's fluid collection and disposal system operates in a fundamentally different way than that of the applicant. The applicant's canister is emptied of collected body fluids and cleaning fluid by vacuum operatively applied to the suction tube that extends to the bottom of the canister. In contrast, in Kerwin the collection vessel is emptied by means of compressed air applied to it, rather than by vacuum. Although Kerwin's canister or collection unit 12 has a vacuum connection port, vacuum is used only during the collection of patient fluid, in order to induce a flow of patient fluid into the canister. Once the fluid collection is completed, the vacuum source and patient suction lines are disconnected from the manifold 13 (see col.6, lines 43-47). For removing patient fluid and cleaning fluid from the collection unit, Kerwin's servicing unit uses compressed air. Compressed air is forced through the sanitary circuit 66 into vessel 20, forcing the fluid in the vessel into drain 71 (see col. 7, lines 45 - 52 and col. 6, lines 19 - 23). Accordingly, Kerwin's servicing unit does not have element (d) of applicant's claim 22, namely "a vacuum conduit operatively connecting a vacuum source to said outlet conduit for inducing a flow of fluid from said canister through said outlet conduit." Claim 22 is accordingly not anticipated by Kerwin et al.

In paragraph 8 of the Office Action, the Examiner rejects claims 1 - 4 under 35 U.S.C. 103(a) as being unpatentable over Kashmer et al., Patent No. 4,465,485. Applicant submits that the invention claimed in claims 1 to 4 is not obvious in view of Kashmer et al. Kashmer's suction canister simply collects body fluid from a patient during surgery. It is *not* adapted for emptying and cleaning of the canister by a service unit. In Kashmer, the tube extending downward from liquid passage opening 29, namely sheath 35,

merely serves as a splash guard to prevent body fluid from splashing against the valve/filter housing (see col. 5, lines 3 - 11). Body fluid flows *into* the canister through sheath 35. The sheath 35 is not adapted to be used as a suction tube to evacuate body fluid from the vessel. In contrast, applicant's suction tube 94 serves an entirely different purpose from Kashmer's sheath 35. It serves the purpose of providing a conduit for the removal of body fluid and cleaning fluid from the canister. It extends to the bottom of applicant's canister because that is required in order to empty the canister of fluids. In Kashmer, emptying of the canister is carried out by simply pouring fluid out through pour spout 19 (see col. 4, lines 46 - 49). Accordingly, applicant's claimed invention is not obvious because Kashmer et al. does not have a suction tube at all, nor an outlet port for suctioning body fluid and cleaning fluid from the vessel. Kashmer's canister is merely a fluid collection vessel.

In paragraph 9 of the Office Action, the Examiner rejects claim 5 under 35 U.S.C. 103(a) as being unpatentable over Kashmer et al. in view of Blenkush, Patent No. 5,033,777. The Examiner relies on Blenkush as showing a puncturable membrane. Having regard to the fundamental differences between the canister of Kashmer et al. and that of the applicant, explained in the preceding paragraph, the applicant's invention, as claimed in claim 5, is not obvious in view of this combination of references.

In paragraph 10 of the Office Action, the Examiner rejects claim 6 under 35 U.S.C. 103 as being unpatentable over Kashmer et al. in view of Beguiristain, Patent No. 3,612,089, relying on Beguiristain as showing a plunger corresponding to applicant's needle valve. Again, having regard to the fundamental differences between the canisters of Kashmer et al. and the applicant, as explained above, the canister claimed in claim 6 is not obvious in view of this combination of references.

In claim 11, the Examiner rejects claim 7 and 15 - 16 under 35 U.S.C. 103 as being unpatentable over Kerwin et al., Patent No. 5,449,009 in view of Leviton, Patent No. 4,384,580. The Examiner cites Leviton as showing that it would be obvious to provide the Kerwin device with the second inlet and outlet ports taught by Leviton in order to provide a system through which fluids can be collected serially. As discussed above, and as further discussed in the applicant's specification at page 2, lines 5 - 15, Kerwin's servicing unit

removes fluids from the collecting container by the introduction of pressurized air into the container to displace the fluids and force them to a drain. This is fundamentally different from the applicant's servicing unit, which does not inject pressurized air into the canister but rather empties it by means of vacuum. Nor does the applicant's device collect fluid serially as in Leviton. Neither Kerwin nor Leviton, nor a combination of them, teach the suctioning of body fluid and cleaning fluid from a canister. Thus, they do not disclose the features claimed in claims 7 and 15 - 16 of an outlet port in the lid of the canister for suctioning body fluids and cleaning fluid from the canister, a suction tube in fluid communication with the outlet port and extending to the bottom of the canister, and a vacuum conduit connecting a vacuum source to the outlet conduit for inducing a flow of fluid from the canister through the outlet conduit. None of these features are disclosed or suggested by a combination of the Kerwin et al. and Leviton references.

In paragraph 12 of the Office Action, the Examiner rejects claims 9, 14, 17 and 18 under 35 U.S.C. 103 as unpatentable over Kerwin et al. in view of Leviton and further in view of Griparis, Patent No. 3,833,417. The Examiner relies on Griparis as disclosing a spraying means for cleaning the interior surfaces of a tank. Having regard to the basic differences between the Kerwin device and that of the applicant, as explained above, and particularly the differences between the applicant's system and any combination of Kerwin and Leviton, as explained in the preceding paragraph, the applicant's system further including a sprayer is not obvious in view of a combination of the three cited references.


In paragraph 14 of the office Action, the Examiner rejects claims 1 - 22 on the basis of obviousness-type double patenting over claims 1 - 15 of U.S. Patent No. 5,741,237. In response to this rejection, the applicant is submitting concurrently herewith (as a separate document) a Terminal Disclaimer. In view of the Terminal Disclaimer, it is

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submitted that this rejection should be withdrawn.

Respectfully submitted,

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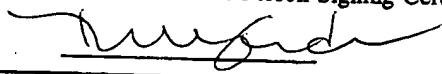
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